

Di-az et al v. Tesla, Inc. et al
U.S. District Court for the Northern District of California
Case No. 17-cv-06748-WHO

EXHIBIT 7

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DEMERIC DI-AZ, OWEN)
DIAZ, and LAMAR)
PATTERSON,)
Plaintiffs,)
vs.) Case No.: 3:17-CV-066748
) WHO
)
TESLA, INC., dba TESLA)
MOTORS, INC.; CITISTAFF)
SOLUTIONS, INC.; WEST)
VALLEY STAFFING GROUP;)
CHARTWELL STAFFING)
SERVICES, INC.; and DOES)
1-10, inclusive,)
Defendants.)
_____)

DEPOSITION OF MONICA DE LEON

Thursday, December 6, 2018

TAKEN BEFORE:

HEIDI BELTON, CSR, RPR, CRR, CCRR, CRC
CSR No. 12885

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11:16:06 1 ambiguous.

11:16:09 2 THE WITNESS: The Owen Diaz situation.

11:16:17 3 BY MS. AVLONI:

11:16:17 4 Q. And you mentioned one or two. Is there

11:16:22 5 another investigation that you recall being involved

11:16:23 6 in?

11:16:24 7 A. Just -- just from what I recall, just,

11:16:28 8 like, an altercation that happened between Owen Diaz

11:16:33 9 and another -- another gentleman, another candidate.

11:16:41 10 Q. Do -- do you recall -- does the name

11:16:44 11 Rothaj Foster sound familiar?

11:16:46 12 A. Yes, ma'am.

11:16:47 13 Q. And so was the other investigation related

11:16:49 14 to the altercation between Rothaj Foster and Owen

11:16:52 15 Diaz?

11:16:52 16 A. That's what it was, yes.

11:17:01 17 Q. And Rothaj Foster was a CitiStaff

11:17:03 18 employee?

11:17:04 19 MR. RUTSCHMAN: Objection; calls for

11:17:04 20 speculation and calls for a legal conclusion.

11:17:11 21 THE WITNESS: Rothaj Foster did work for

11:17:12 22 CitiStaff.

11:17:13 23 BY MS. AVLONI:

11:17:13 24 Q. And Owen was a CitiStaff employee?

11:17:16 25 MR. RUTSCHMAN: Objection; calls for

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12:33:51 1 of the complaint of the drawing, yes.

12:33:53 2 BY MS. AVLONI:

12:33:56 3 Q. Okay. How about just in general?

12:34:01 4 A. In general, yes.

12:34:11 5 Q. You seem hesitant. Is there a reason?

12:34:16 6 A. Like I said, it's just -- the situation

12:34:19 7 with the drawing, it seemed completely credible to

12:34:24 8 me. But when it came to the altercation -- and I

12:34:27 9 did -- spoke to Owen about, you know, what happened

12:34:30 10 with him and Rothaj -- there was a lot of he

12:34:33 11 couldn't recall what was said or what was -- what

12:34:40 12 happened. So in that situation I didn't -- it

12:34:42 13 didn't really seem too credible --

12:34:45 14 Q. Did you --

12:34:46 15 A. -- when we were speaking.

12:34:49 16 Q. When you spoke to him about the Rothaj

12:34:52 17 situation, did you speak to him in person or by

12:34:55 18 phone?

12:34:55 19 A. It was by phone.

12:34:56 20 Q. And was he at home at that time, do you

12:34:58 21 know, or was he at work?

12:35:00 22 MR. RUTSCHMAN: Objection; calls for

12:35:00 23 speculation.

12:35:01 24 BY MS. AVLONI:

12:35:02 25 Q. If you know.

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12:35:03 1 **A.** That I don't remember.
12:35:03 2 **Q.** Did you speak to Rothaj in person or by
12:35:06 3 phone about that situation?
12:35:08 4 **A.** By phone.
12:35:17 5 **Q.** Have you -- while you were working for
12:35:20 6 CitiStaff, has anyone brought to your attention any
12:35:24 7 concerns about Owen Diaz?
12:35:27 8 MR. RUTSCHMAN: Objection; vague and
12:35:27 9 ambiguous.
12:35:29 10 THE WITNESS: Can you repeat the question?
12:35:31 11 BY MS. AVLONI:
12:35:31 12 **Q.** Yes. While you were working for
12:35:33 13 CitiStaff, has anyone at all brought any concerns to
12:35:37 14 you about Owen Diaz?
12:35:39 15 **A.** **Yes, there was two concerns. One was --**
12:35:47 16 **well, yes, there was.**
12:35:49 17 **Q.** What were those concerns?
12:35:51 18 **A.** So I had spoke to Rothaj. He had called
12:35:57 19 me and would let me know that -- he was letting me
12:36:03 20 know that, you know, Owen wasn't always at his post
12:36:07 21 where he was supposed to be, he would be gone for
12:36:10 22 long periods of time or would take longer lunch
12:36:16 23 breaks or long breaks.
12:36:19 24 There was an incident where he stated that
12:36:20 25 they were really backed up at the elevators and he

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12:57:04 1 A. I recall Owen Diaz saying that they had an
12:57:08 2 altercation and that Rothaj was threatening to shoot
12:57:17 3 him and threatening his car, because he had a nice
12:57:24 4 car at the time. And that, you know, Rothaj was
12:57:30 5 being very aggressive and --

12:57:37 6 Q. And this is the conversation you had on
12:57:38 7 the phone?

12:57:38 8 A. Yes.

12:57:39 9 Q. Did he say anything else about the
12:57:40 10 situation that you recall?

12:57:46 11 A. Not that I recall.

12:57:47 12 Q. And what did you tell Owen?

12:57:55 13 A. So I told Owen. I said oh, okay, again,
12:57:59 14 are you going to return to work? How do you feel?
12:58:02 15 Do you feel comfortable with going back to work? He
12:58:06 16 said yes. Do you feel comfortable with being in
12:58:10 17 your same position? And -- or would you like to be
12:58:17 18 moved to a different spot. He said no, he wanted to
12:58:21 19 continue where he was at. So I let him know that in
12:58:23 20 this situation, you know, I'm going to take this up
12:58:29 21 to HR as well. I'll be speaking with, you know,
12:58:37 22 Rothaj. And I let him know that Chartwell would be
12:58:40 23 speaking to him and they would be doing their
12:58:47 24 investigation.

12:58:49 25 Q. Did you take notes during that

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12:58:51	1	conversation?
12:58:51	2	<u>A.</u> <u>I -- yeah. I believe I did.</u>
12:58:54	3	<u>Q.</u> <u>And you would have saved those notes in</u>
12:58:56	4	<u>the CitiStaff system?</u>
12:58:58	5	<u>A.</u> <u>It would have been in the system.</u>
12:59:00	6	<u>Q.</u> <u>And then after he -- Owen raised this</u>
12:59:03	7	<u>concern to your attention, did you have a</u>
12:59:05	8	<u>conversation with Rothaj?</u>
12:59:08	9	<u>A.</u> <u>Yes.</u>
12:59:08	10	<u>MR. RUTSCHMAN:</u> <u>Objection; misstates the</u>
12:59:10	11	<u>witness' prior testimony.</u>
12:59:12	12	<u>THE WITNESS:</u> <u>After I spoken [sic] and</u>
12:59:15	13	<u>took down the information from Owen Diaz, I did</u>
12:59:22	14	<u>later call Rothaj Foster as well to see what</u>
12:59:25	15	<u>happened on his side, on his end.</u>
12:59:28	16	<u>BY MS. AVLONI:</u>
12:59:28	17	<u>Q.</u> <u>Okay. And what did Rothaj tell you?</u>
12:59:33	18	<u>A.</u> <u>So Rothaj did admit to them having, you</u>
12:59:38	19	<u>know, an argument. He did admit to, you know,</u>
12:59:42	20	<u>speaking kind of loud, raising his voice. But he</u>
12:59:46	21	<u>denied that -- you know, he said that he never made</u>
12:59:51	22	<u>any threats of any sort about any caller, about</u>
12:59:55	23	<u>shooting anybody or any of that sort. He said</u>
01:00:02	24	<u>that -- you know, that Owen Diaz was already kind of</u>
01:00:09	25	<u>aggressive and very strong -- he would come out very</u>

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01:00:13 1 strong and very aggressive. And, you know, that day
01:00:17 2 he said I do admit to -- to arguing and yelling
01:00:23 3 because I felt like -- he felt that Owen Diaz was
01:00:26 4 being disrespectful to him and, you know, taking
01:00:32 5 advantage of his power as a lead, telling him that
01:00:36 6 he can go to his break or his lunch whenever he
01:00:39 7 tells him to or --
01:00:47 8 Q. So he -- Rothaj told you that Owen Diaz
01:00:49 9 was being disrespectful by telling Rothaj that he
01:00:53 10 can go on break or his lunch when Owen told him to?
01:00:56 11 A. He said that -- that was something that he
01:00:58 12 said, but he was just being disrespectful as far as
01:01:04 13 cursing at him and telling him other things like,
01:01:09 14 you know, "shut up" or --
01:01:11 15 Q. He said that to you?
01:01:13 16 A. Rothaj.
01:01:16 17 Q. Do you know if Owen -- what Owen's job
01:01:22 18 title was as a CitiStaff contractor at the Tesla
01:01:26 19 facility?
01:01:26 20 A. Elevator lead.
01:01:28 21 Q. And how about Rothaj Foster? Do you know
01:01:30 22 what his title was?
01:01:31 23 A. He was at the elevators as well, but --
01:01:36 24 Q. Do you know if an elevator lead had the
01:01:39 25 ability to tell someone like in Rothaj's position

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02:23:04 1 happened like graveyard shift, they would probably
02:23:13 2 contact the client, let the client know before
02:23:18 3 letting me know at -- out of the office at midnight.
02:23:22 4 BY MS. AVLONI:

02:23:22 5 Q. Did CitiStaff have a requirement that its
02:23:25 6 contractors contact the CitiStaff personnel like
02:23:29 7 yourself when it comes to complaints of harassment?
02:23:30 8 Or can CitiStaff contractors make the complaints
02:23:36 9 directly to the clients?

02:23:37 10 MR. RUTSCHMAN: Objection; compound.

02:23:40 11 Calls for speculation. Asked and answered.

02:23:50 12 THE WITNESS: So they would be able to
02:23:51 13 report to me as well. And if for some reason they
02:23:54 14 can't get ahold of me and they felt they needed to
02:23:59 15 tell their supervisor -- they tell their supervisor
02:24:02 16 about it, then yeah, yes.

02:24:05 17 BY MS. AVLONI:

02:24:05 18 Q. And would supervisors -- do you know if
02:24:08 19 they're required to notify you at some point if
02:24:11 20 supervisors become aware of such complaints?

02:24:14 21 MR. RUTSCHMAN: Objection; calls for
02:24:14 22 speculation.

02:24:16 23 THE WITNESS: In that case -- in this case
02:24:17 24 where it was the -- with Owen -- with Owen's
02:24:22 25 complaint, since it did happen during his graveyard

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04:22:11 1 Q. Correct. Do you know who that is?

04:22:15 2 A. **She was the main contact, like I had**

04:22:18 3 **mentioned earlier, for Tesla after Nancy.**

04:22:24 4 Q. So a nextSource. That's -- okay.

04:22:33 5 And when you received the e-mail from

04:22:35 6 Wayne Jackson back on November 6 of 2015, do you

04:22:39 7 recall reading the entire e-mail or the chain below

04:22:45 8 it?

04:22:48 9 A. **Yes.**

04:22:59 10 Q. And when you read the e-mail -- actually,

04:23:02 11 prior to receiving the e-mail on November 6, 10:21

04:23:07 12 a.m., had you had any information regarding the

04:23:11 13 altercation between Rothaj Foster and Owen Diaz?

04:23:13 14 A. **Repeat the question?**

04:23:16 15 Q. Prior to receiving the e-mail from Wayne

04:23:17 16 Jackson on November 6 of 2015 at 10:21 a.m., did you

04:23:23 17 have any information at all that there was an

04:23:25 18 altercation between Rothaj and Owen?

04:23:28 19 A. No.

04:23:28 20 Q. That's the first time you learned about

04:23:30 21 the altercation between Rothaj and Owen?

04:23:32 22 A. Yes.

04:23:33 23 Q. And then when you read the e-mail for

04:23:38 24 Wayne Jackson, what were your immediate impressions

04:23:46 25 about the altercation between Rothaj and Owen?

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1 REPORTER'S CERTIFICATION

2

3 I, Heidi Belton, Certified Shorthand

4 Reporter in and for the State of California, do

5 hereby certify:

6

7 That the foregoing witness was by me duly
8 sworn; that the deposition was then taken before me
9 at the time and place herein set forth; that the
10 testimony and proceedings were reported
11 stenographically by me and later transcribed into
12 typewriting under my direction; that the foregoing
13 is a true record of the testimony and proceedings
14 taken at that time.

15

16 IN WITNESS WHEREOF, I have subscribed my
17 name on this date:

18

19

20

21

22

23 Heidi Belton, CSR, RPR, CRR, CCRR, CRC
24 CSR No. 12885

25